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Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Alamo Contracting Enterprises, Inc.

**File:** B-242458.2

**Date:** April 30, 1991

Dorothy M. Daniels for the protester,  
James R. McGinnis, Jr., for Aleman Food Service, Inc., and  
Robert L. Smith, Sr., for Speedy's Food Service, interested  
parties.  
Millard F. Pippin, Department of the Air Force, for the  
agency.  
Susan K. McAuliffe, Esq., and Michael R. Golden, Esq., Office  
of the General Counsel, GAO, participated in the preparation  
of the decision.

### DIGEST

A protest that solicitation provisions are ambiguous is denied where all provisions to which the protester objects reasonably describe the work to be performed and the information provided is adequate to enable firms to compete intelligently and on an equal basis. The mere presence of risk in a solicitation does not render it inappropriate, and offerors are expected to consider the degree of risk in calculating their prices.

### DECISION

Alamo Contracting Enterprises, Inc. protests various allegedly ambiguous and inadequate provisions contained in request for proposals (RFP) No. F41636-90-R0222, a small business set-aside, issued by the Department of the Air Force for food services at Lackland Air Force Base, Texas. We deny the protest.

The RFP, issued on August 15, 1990, contemplates the award of a fixed-price, award fee contract for a base period plus 4 option years. The contractor is required to provide full food services, including the management, maintenance and operation of certain food handling facilities, kitchens and dining halls, as well as the storage, cooking, presentation, and disposal of food items at those facilities, in accordance with the RFP's performance work statement. The RFP includes diagrams of the dining halls, lists of government furnished supplies to be maintained and repaired, and workload and meal

estimates. The RFP also includes a performance requirements summary which delineates the required services and the standards that must be met by the contractor to receive the maximum payment allowed under the contract. The RFP urged all offerors to inspect the sites to satisfy themselves as to all the conditions that might affect the cost of contract performance. Alamo did not attend the two scheduled site visits or the pre-proposal conference.

On December 26, 1990, 2 days prior to the closing date for the receipt of proposals, Alamo filed a protest with our Office alleging that many of the RFP's specifications were ambiguous. Alamo withdrew that protest, however, after the Air Force informed the protester that it was going to issue amendment No. 9 to the solicitation to clarify the alleged ambiguities. On January 14, Alamo filed a new protest with our Office reinstating several of its earlier protest grounds on the basis that amendment No. 9, issued on January 4, failed to fully remove all ambiguity from the solicitation.<sup>1/</sup> Although Alamo was promptly advised by the agency that the Air Force intended to proceed with the rescheduled January 18 closing date for the receipt of proposals, Alamo chose not to submit a proposal. Twenty-one proposals were timely received by the agency. The Air Force reports that of the 140 offerors solicited, only Alamo protested the adequacy of the solicitation's provisions.

Alamo alleges that several of the RFP's specifications are ambiguous regarding the agency's requirements and the contractor's performance obligations. Alamo argues, among other things, that the RFP wrongfully holds the contractor responsible for work to be performed by military mess

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<sup>1/</sup> Alamo raises two additional challenges in the protest. First, Alamo contends that since one offeror was given information about modifications to the current contract in response to that offeror's Freedom of Information Act (FOIA) request, all prospective offerors should have received that information. Second, Alamo contends that the agency failed to inform all interested parties of its protest within 1 day of filing, as required under Federal Acquisition Regulation (FAR) § 33.104(a)(4). Since we do not consider the contested information necessary to the preparation of proposals, or that the lack of such information would be prejudicial to offerors, the agency was not obliged to distribute this information to all prospective offerors. FAR § 15.410(c). As for the notice of protest, all offerors were given reasonably prompt notice (i.e., within 4 days of filing) of Alamo's protest. We consider this matter to be procedural in nature and nonprejudicial to Alamo.

attendants not under the contractor's control, that several meal and pastry estimates are ambiguous or inaccurate, and that the RFP's maintenance and repair requirements are unclear. Alamo contends that these alleged ambiguities leave the contractor at risk if the agency's ultimate requirements are different from those stated in the RFP.

The Air Force contends that it has explained its requirements to the greatest extent possible and that the solicitation contains sufficiently detailed information for offerors to submit intelligent proposals. The agency asserts that the majority of Alamo's allegations of ambiguity were addressed in amendment No. 9, including that amendment's cover letter, which the contracting officer sent to each of the prospective offerors. As for Alamo's remaining allegations of ambiguity, the Air Force contends that the contested provisions are clear when the solicitation is read in its entirety. Since the protester's challenges to the specifications concern only a small portion of the overall requirement, and since 21 other offerors submitted proposals without questioning the RFP's requirements, the Air Force concludes that the RFP reasonably describes the work to be performed and that Alamo was not precluded from submitting an intelligent offer in response to the RFP.

As a general rule, the contracting agency must give offerors sufficient detail in a solicitation to enable them to compete intelligently and on a relatively equal basis. C3, Inc., B-241983.2, Mar. 13, 1991, 91-1 CPD ¶ \_\_\_\_\_. The mere allegation that a solicitation is ambiguous does not, however, make it so. Snyder Corp., B-233939, Mar. 16, 1989, 89-1 CPD ¶ 282. There is no requirement that a competition be based on specifications drafted in such detail as to eliminate completely any risk or remove every uncertainty from the mind of every prospective offeror. A&C Bldg. and Indus. Maintenance Corp., B-230270, May 12, 1988, 88-1 CPD ¶ 451.

We have reviewed the contested provisions and do not find that they are deficient, that they impose an improper degree of risk on the contractor, or that they otherwise precluded Alamo from an opportunity to intelligently prepare a proposal to compete on an equal basis with the other offerors.

For example, the protester argues that "Required Service" (RS) 22 (pertaining to cleaning up spills) and RS 35 (for garbage and trash services) are ambiguous because they appear to hold the contractor responsible for work to be performed by military personnel that are not under the contractor's control, but for which the contractor can be penalized by deductions for unsatisfactory performance. The RFP provides that military mess attendants will be responsible for the cleaning of dining areas and that the contractor's staff will

be responsible for cleaning spills in serving areas during meals. The cover letter to amendment No. 9 clarifies that RS 22 (which originally required the contractor to clean up spills in the "serving/dining areas" within 2 minutes) is "applicable only to serving line personnel."<sup>2/</sup> This amendment thus deletes the portion of RS 22 that held the contractor liable for cleaning spills in the dining areas, which is the responsibility of military mess personnel and limits the contractor's staff to cleaning spills in the serving area. Likewise, the cover letter explains that under RS 35 the contractor is only responsible for emptying its own trash in the kitchen area. Accordingly, the contractor is not responsible for the military staff's defined duties regarding trash can cleaning and trash removal from the dining and dishwashing areas. We think the protester's concerns were addressed by amendment No. 9, and the contractor is not responsible for those aspects of RS 22 and RS 35 that are to be performed by military personnel.

Next, Alamo generally contends that several of the RFP's meal and pastry estimates are ambiguous and impose too much risk upon the contractor since the contractor would have to absorb additional costs or face payment deductions if the agency's ultimate requirements are different from those stated in the RFP. The protester specifically questions the solicitation's reoccurring reserve feeding requirement, certain estimates for ground meals, (i.e., whether they are for each or the total of the months listed), and the Air Force's estimate of an expected 30 percent decrease in pastry consumption. Alamo points out that the RFP contemplates at least some temporary dining facility closings. Basically, the protester is concerned about the contractor's potential risk and expense from inaccurate estimates if the RFP does not provide for an equitable adjustment to the contract to reflect any changed requirements.

We find the RFP reasonably informative and cannot see how Alamo was prevented from preparing its proposal. There is no evidence that the RFP estimates are inaccurate or not based on the best information available to the Air Force. Further, the estimates Alamo challenges, such as the number of ground meals to be produced monthly, represent such a small portion of the overall requirement that it would have only a very slight effect, if any, on the resulting contract for full food

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<sup>2/</sup> Since the cover letter to amendment No. 9 was signed by the contracting officer and sent to all prospective offerors, the terms of that cover letter are part of that amendment and are binding on all offerors. See Ingersoll-Rand, B-225996, May 5, 1987, 87-1 CPD ¶ 474.

services. While the RFP repeatedly cautions offerors that the accuracy of the estimates (i.e., concerning headcount, ground meals, and pastry consumption) is not guaranteed, in the event of changed requirements which do not reflect the solicitation's quantity estimates, the RFP reasonably provides that the contractor can seek an adjustment to the contract price as long as the contractor based its production on the information regarding past consumption records and expected attendance. Concerning the estimates for meals, the RFP specifically provides a per meal pricing formula for an adjustment to the contract where meals increase or decrease beyond the quantity ranges provided in the solicitation, whether or not there are any facility closures. Since reimbursement for expenses incurred due to possibly inaccurate estimates is reasonably available to the contractor, the contract would not appear to pose excessive risk to the contractor. Benco Contract Servs., B-233748, Feb. 24, 1989, 89-1 CPD ¶ 205.

Alamo next contends that several of the RFP's maintenance and repair requirements are so unclear that it was unable to propose prices for these services. We do not agree. For example, Alamo claims the RFP is ambiguous as to the contractor's responsibility to maintain equipment located in a temporarily closed dining facility, and to absorb the costs of minor repair parts. The RFP makes clear that the contractor is responsible for maintaining all equipment listed on technical exhibits 5b and 5d as government-furnished equipment. Since the closed facility's equipment remains listed on these exhibits, it is to be maintained by the contractor. The RFP also calls for reimbursement of repair parts by the government which cost more than \$5 and offerors were specifically advised that the contractor is to cover costs of repair parts under \$5. Again, the RFP is reasonably clear concerning maintenance and repair responsibilities.

Based on our review, the specifications discussed here as well as the others which Alamo similarly believes are defective provide no basis for legal objection. The RFP reasonably provides the information needed for offerors to be able to consider any potential risks of performance and to submit competitive proposals.

The protest is denied.

  
for James F. Hinchman  
General Counsel